

1 TRINETTE G. KENT (State Bar No. 025180)
2 10645 North Tatum Blvd., Suite 200-192
3 Phoenix, AZ 85028
4 Telephone: (480) 247-9644
5 Facsimile: (480) 717-4781
6 E-mail: tkent@lemborglaw.com

7 Of Counsel to
8 Lemberg Law, LLC
9 A Connecticut Law Firm
10 43 Danbury Road
11 Wilton, CT 06897
12 Telephone: (203) 653-2250
13 Facsimile: (203) 653-3424

14 Attorneys for Plaintiff,
15 Judy Sexton

16 UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Judy Sexton,

19 Plaintiff,

20 vs.

21 Conn Appliances, Inc.,

22 Defendant.
23
24

Case No.:

COMPLAINT

JURY TRIAL DEMANDED

25
26
27
28

1 Plaintiff, Judy Sexton (hereafter “Plaintiff”), by undersigned counsel, brings the
2 following complaint against Conn Appliances, Inc. (hereafter “Defendant”) and
3
4 alleges as follows:

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the
7
8 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

9 2. Jurisdiction of this Court arises under 47 U.S.C. § 227(b)(3), 28 U.S.C. §
10 1331.
11

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
14 where Defendant transacts business in this district.
15

16 **PARTIES**

17 4. Plaintiff is an adult individual residing in Mesa, Arizona, and is a
18 “person” as defined by 47 U.S.C. § 153(39).
19

20 5. Defendant is a business entity located in The Woodlands, Texas, and is a
21 “person” as the term is defined by 47 U.S.C. § 153(39).
22

23 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

24 6. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
25 be owed to Defendant.
26
27
28

1 7. At all times mentioned herein where Defendant communicated with any
2 person via telephone, such communication was done via Defendant's agent,
3 representative or employee.
4

5 8. At all times mentioned herein, Plaintiff utilized a cellular telephone
6 service and was assigned the following telephone number: 480-XXX-9664 (hereafter
7 "Number").
8

9 9. Defendant placed calls to Plaintiff's Number in an attempt to collect a
10 debt.
11

12 10. The aforementioned calls were placed using an automatic telephone
13 dialing system ("ATDS") and/or by using an artificial or prerecorded voice
14 ("Robocalls").
15

16 11. When Plaintiff answered the calls from Defendant, she heard a
17 prerecorded message requesting a call back.
18

19 12. On or about September 19, 2015, Plaintiff directed Defendant to cease
20 calling her Number.
21

22 13. Despite being unequivocally advised by Plaintiff to stop calling,
23 Defendant continued to call Plaintiff using an ATDS and/or prerecorded message at an
24 excessive and harassing rate.
25

26 14. Defendant's calls directly interfered with Plaintiff's right to peacefully
27 enjoy a service that Plaintiff paid for and caused Plaintiff a significant amount of
28 anxiety, frustration and annoyance.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47
U.S.C. § 227, et seq.**

15. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

16. The TCPA prohibits Defendant from using, other than for emergency purposes, an ATDS and/or Robocalls when calling Plaintiff's Number absent Plaintiff's prior express consent to do so. *See* 47 U.S.C. § 227(b)(1).

17. Defendant's telephone system has the earmark of using an ATDS and/or using Robocalls in that Plaintiff, upon answering calls from Defendant, heard a prerecorded message requesting a call back.

18. Defendant called Plaintiff's Number using an ATDS and/or Robocalls without Plaintiff's consent in that Defendant either never had Plaintiff's prior express consent to do so or such consent was effectively revoked when Plaintiff requested that Defendant cease all further calls.

19. Defendant continued to willfully call Plaintiff's Number using an ATDS and/or Robocalls knowing that it lacked the requisite consent to do so in violation of the TCPA.

20. Plaintiff was harmed and suffered damages as a result of Defendant's actions.

1 21. The TCPA creates a private right of action against persons who violate
2 the Act. *See* 47 U.S.C. § 227(b)(3).
3

4 22. As a result of each call made in violation of the TCPA, Plaintiff is
5 entitled to an award of \$500.00 in statutory damages.
6

7 23. As a result of each call made knowingly and/or willingly in violation of
8 the TCPA, Plaintiff may be entitled to an award of treble damages.
9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against Defendant for:

12 A. Statutory damages of \$500.00 for each call determined to be in violation
13 of the TCPA pursuant to 47 U.S.C. § 227(b)(3);
14

15 B. Treble damages for each violation determined to be willful and/or
16 knowing under the TCPA pursuant to 47 U.S.C. § 227(b)(3); and
17

18 C. Such other and further relief as may be just and proper.
19

20 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
21

22
23 DATED: January 26, 2016

TRINETTE G. KENT

24 By: /s/ Trinette G. Kent
25 Trinette G. Kent, Esq.
26 Lemberg Law, LLC
27 Attorney for Plaintiff, Judy Sexton
28